



A TRUE
STATE OF THE CASE,
In reference to the right of the
CORPORATION
OF
TRINITY-HOUSE
TO THE
BALLAST-OFFICE.



That the Ballast-Office was in the possession of the Earl of Nottingham, Lord High Admiral in the time of Queen Eliz. by Letters-patents, and in the 36th. of Queen Eliz. the said Lord High Admiral taking notice how convenient it was that the execution of this Office should be put upon the Trinity-house, they being the most experienced persons in Navigation, and best able to provide for the security thereof, and also that the profits arising out of the said Office, might be settled as a Revenue upon the said Corporation, for the relief of poor decayed Sea-men, their Widows and Children.

The said Lord High Admiral surrendered the said Office unto the Queen, with exprefs caution and request, that her Majesty would settle the same upon the Corporation of Trinity-house, and their Successors for ever.

That in the 36th. of Eliz. the said Office was granted under the Great Seal of England, to the Trinity-house, and their Successors for ever, as of the Mannour of East-Greenwich.

If it be objected.

That King *James* and his late Majesty of Glorious Memory, made several grants of the said Office, notwithstanding the Grant of Trinity-house.

There was never any grant made of the Office, either by King *James*, or his late Majesty, only some Projectors under pretence of a new devised Engine, and also of a great yearly Rent of a 1000. marks which never was paid, got a Patent in the 12th. year of his late Majesty, to take up Ballast out of the River, which the Trinity-house permitted then to do, having made an agreement under a yearly Rent, with Trinity-house, to use the said Engines Ballast for a certain time, nor indeed could they otherwise exercise the said Patent, for that his Majesty intended not by the granting thereof, that they should put this said project in execution, whereby they should in the least prejudice the Grant of Trinity-house, as appears by a special Proviso in that very Patent of the 12th. of his late Majesty.

If it be objected, that the Office granted to the Trinity-house, is only the Supervision of the Ballast, as to Goodness and Tonnage, and that the real Ballasting, is still in the King, and the rather for that the most of the Ballast is taken out of the River of Thames, which is the Kings proper soil, and is not granted in the Letters-Patents to Trinity-house.

1. **T**he Law takes notice only of one Ballast-Office.

2. That Office is granted to Trinity-house, with the Lafage and Ballastage of all, and all manner of Ships whatsoever in expresse words; But besides, the Office is not the supervision only, but the real Ballasting of all Ships, the Statute of 27th. H. 8. directing positively, that Sir *Thomas Spert*, and such as after him should hold the said Office, should take part of the Ballast which they should lay on board Ships betwixt *Richmond* and *Greenhith*, (where note,) That the Ballast-Office is to make provision of the real Ballast, as well as to supervise the Goodness and Tonnage.

3. The Trinity-house hath the same Office which the Lord Admiral *Nottingham* enjoyed. That the Lord Admiral *Nottingham* enjoyed the Office of Ballast, and the Ballasting of all, and all manner of Ships appears by a decree in the High Court of Admiralty, 34th. of *Eliz*.

That the said Lord Admiral surrendered the said Office and Ballasting of all, and all manner of Ships appears by the Deeds of Surrender upon Record to Queen *Eliz*.

That

That Queen *Elizabeth* upon that Surrender, grants the office of Ballast^{27. Hen} and the Ballasting of all, and all manner of ships to *Trinity* house, appears by^{8.} the Letters patent under Seal.

4. As to the soil of the River, although the same be not granted in expresse words in the Patent to the *Trinity-House*, yet the Statute of the 27. of *H. 8.* doth not only grant the *Ballaster* a liberty, but enjoynes the *Ballaster* under penalty to take *Ballast* out of the River of Thames; and it is a part of his office so to do, in order to the cleansing of the said River; and so no need to be granted in expresse words in the Patent.

5. Besides if the Queen (or his present Majesty) had or should make a grant^{27. Hen} of the soil of the River of Thames; such a grant could not restrain the *Ballaster*^{8.} from taking *Ballast* in the Thames, it being a duty laid upon the office by Statute-Law under pennialty.

6. Such a grant of the Soil could not impowre any person to *Ballast* Ships with such soil, because the Office of *Ballasting* all Ships is in the *Trinity-House*.

7. Such a grant of the soil of the Thames would be void and null in it self: For by the Statute of 27. of *Hen. 8.* it is provided, that it shall be lawfull for any man to take Gravell and sand out of the Thames, without the let of any person, or without paying any thing for the same.

Reasons humbly Offered against Montjoyes Patent.

1. **T**He Patent made to *Trinity-house* in the 36. of Queen *Elizabeth*, is the Senior Patent, and ought to stand good against the Patent granted to *Montjoy*, &c. untill it be made void by Law.

2. The patent granted to *Montjoy*, ~~and~~ taking no notice of the patent to *Trinity-house*, and being obtained also upon a false suggestion. viz. That the *Ballasting* of Ships was in his Majesties power to grant (when in truth it was not) the said patent to *Montjoy* is void even by the common Law.

3. That there being a Rent reserved in *Montjoyes* Patent, with an expresse proviso, that if the Rent should be behind and unpaid by the space of twenty one dayes after the time limited for payment, the same should be void and null: And forasmuch as no rent was ever paid, or at least not one peny after the first year; the said Patent is not only legally, but actually void, as if no such Patent had ever been.

4. The said patent to *Montjoy* was illegal, and a grievance, and was so adjudged in Parliament *Anno 1640.* upon the petition of of the City of *London*, as also of the Merchants, Owners, and Masters of the Ships, and was never since put in execution.

1. It was illegal, in that it granted the fines and Forfeitures of penall Laws for Nufancies and trespasses committed upon the River of Thames; the gran-

ting whereof, by patent or otherwise, before judgement is directly against Law, and tended to destroy the Jurisdiction of the City of *London*; the punishment of which offences, hath been vested in the Lord Mayor and City of *London* as conservators of the Thames for more than 200 years.

2. It was illegall, in that it granted the Ballasting of Ships against the anti-ent Right of the Corporation of *Trinity-house*.

3. It was illegall, in that it granted the Gravell, sand, and soil of the River of Thames, contrary to an Act of Parliament of the 27. of *Hen. 8*.

4. The negative words that none should take any *Ballast* but of *Montjoy*, and others the Patentees, is against Law in it self, there being no grant of the office of *Ballast* to these Patentees, contrary to the custome which created the office at first.

5. The Patentees are all dead, and *Montjoy* the surviving Patentee left no Executor, nor hath any Administrator.

Obj. If it be objected that Montjoy assigned his interest in his Life time.

Answer. **T**Hat the Corporation of *Trinity-house* being ever since the year, 1648. interrupted for their Loyalty to his late Majesty, the said *Montjoy* and his pretended Assignes taking advantage thereof, petitioned *Oliver Cromwell* for a new patent in the year, 1655. and by their contrivance a new patent was granted, and the said Assignees accepted of a some of monies for their pretended right, and delivered up their patent, and that is the reason they cannot produce their patent under Seal.

2. That some persons pretending a right to *Montjoy's* patent, did lately endeavour to set up that patent against the patent of *Trinity-house*, although in truth that very patent doth expressely say it ought not to prejudice the right of *Trinity-house*, and the cause coming before the House of Lords, after severall Hearings by Counsell learned on both sides, the possession was quieted in *Trinity-house*, untill they should be evicted by due course in Law.

Die Mercurii Decimo tertio Junii.

UPon report of the Lords Committees for Petitions concerning the Titles of the Master, Wardens, and Assistants of the Trinity-house at Deptford-strand, and of the Executors and Assignes of William Montjoy Esq; deceased, to the office of Lastage and Ballastage, and the settling the possession thereof: It is ordered by the Lords in Parliament assembled, that the said Master, wardens, and Assistants shall be, and are hereby settled in the possession of the said Office of Lastage and Ballastage of all ships whatsoever, lying between London-bridge, and the main Sea Eastward, according to their Patent, untill the title to the said Office shall be determined by Law: They, the said Master, Wardens and Assistants, having first given personal security to Jo. Brown Esq; Clerke of Parliament, and Henry Barker Esq; Deputy-Clerk of the Crown, to be answerable for the mean profits of the said Office, in case the said Masters, Wardens, and Assistants shall be ejected by due course of Law, and to the end that no unnecessary trouble or delay may be put upon any Ship, or other Vessel. It is further ordered, that immediately upon payment of the accustomed duties belonging to the Ballast-Office, unto the said Master, Wardens and Assistants, or their Deputy, the said Master, Wardens and Assistants, or their Deputy, shall make Certificate, that payment is made accordingly; without which Certificate, it shall not be lawfull for the respective Officers in the Custom-house, to give forth Cocquets, Contents and other discharges unto any Ships or Vessels whatsoever, untill the said Title be determined as aforesaid.

Jo. Brown Cleric. Parl.

B

Reasons

*Reasons for not Reversing the Order of the Lords in
Parliament assembled of the 13th. of June, 1660.*

1. **I**T would be highly derogatory to the Honour of the House of Peers, after so many solemn hearings and debates of Learned Council on both sides, to reverse the said Order; The Corporation of Trinity-house, having given security in 10000 *l*. and in all things executed the said Order, especially there being no mutation in the State of the Case.

2. It would be destructive to the Corporation of Trinity-house, who seek no private advantage, but only the good of poor decayed Sea-men, their Widows and Children, whose Trustees they are, they having made Provision of Ballast, Wharfs and Lyters, upon the credit of this Order, to the vullue of several thousands of pounds.

3. It would occasion a multitude of vexatious suits in Law, by reason of several contracts made in relation to the business under great Penalties.

4. It would prove the certain ruine of many poor Families, there being above 900. persons who are in contract for this business, and whose livelyhood depends upon their labour therein.

5. It would prove a great discouragement to Navigation, in as much as it hath been ever heretofore greatly contended for, to continue the Office of Ballast in the hands of the Corporation of Trinity-house, who are persons of the greatest experience and knowledge in the preservation, as well as in the necessary accommodation of Ships in the River of *Thames*, not having any private gain or advantage to themselves therein

6. In so much as the Order directs a triall at Law, and that the Pretenders to *Montjoye's* patent have already begun a sute, and have declared in Law: and finding that they have no right, it would be (under favour) irregular as well as injurious, if the said order should be reversed before such tryall had.

7. It would occasion a great reproach, as well as discontent to the Seamen after their long oppression and disincorporation of their Trustees in *Trinity-house*, for their good affection to his late Majesty, being now by the goodness of God restored to the exercise of their Charter and priviledge, if now they should be dispossed of so antient and legall a Right before a triall at Law.

An Expedient Humbly Offered.

THat if any person shall produce Montjoyes Patent, under Seale, with deeds sufficient in Law to convey the interest thereof before his Majesties Councel learned. The Trinity-house are content to go to a Tryall at Law or equity, the first Day of the next Terme, they having already given personall security in 10000 l. to answer the profits arising out of the said Office, in case the tryall shall go against them without delay, or any manner of delatory proceeding whatsoever.

F I N I S.
